

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ALVIA LACY,

*

Plaintiff,

*

v.

*

Case No. 1:06-CV-00068-JJF

NATIONAL RAILROAD PASSENGER
CORPORATION,

*

Defendant.

*

* * * * *

**APPENDIX TO DEFENDANT'S OPENING BRIEF IN SUPPORT OF
ITS MOTION FOR SUMMARY JUDGMENT**

Virginia A. Zrake, Esq. (Del. Bar No. 4054)
LAW OFFICE OF VIRGINIA A. ZRAKE, LLC
Northern Steel Business Center
34382 Carpenters Way
P.O. Box 247
Lewes, Delaware 19958
Tel: (302) 644-6770

Darrell R. VanDeusen, Esq. (admitted *Pro Hac Vice*)
Clifton R. Gray, Esq. (admitted *Pro Hac Vice*)
KOLLMAN & SAUCIER, P.A.
The Business Law Building
1823 York Road
Timonium, Maryland 21093
Tel: (410) 727-4300

*Counsel for Defendant
National Railroad Passenger Corporation*

DATED: December 7, 2006

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1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3

4 -----x

5 ALVIA LACY, x

6 Plaintiff x Civil Action No.

7 v. x 1:06 CV 00068 JJF

8 NATIONAL RAILROAD PASSENGER x

9 CORPORATION (AMTRAK), x

10 Defendant x

11 -----x

ORIGINAL

12

13

14 Deposition of ALVIA LYNN LACY

15 Timonium, Maryland

16 Friday, October 6, 2006

17 10:10 A.M.

18

19

20 Job No. 1-88280

21 Pages 1 - 282

22 Reported by: Sharon D. Livingston, CSR-RPR

A1



1100 Connecticut Avenue, NW • Suite 850, Washington, D.C. 20036

Tel: 202.861.3410 • 800.292.4789 • Fax: 202.861.3425

Web: ladreporting.com • E-mail: lisa@ladreporting.com

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10 Pursuant to Notice, before Sharon D.
11 Livingston, Registered Professional Reporter and
12 Notary Public of the State of Maryland.

DEPOSITION OF ALVIA LYNN LACY
CONDUCTED ON FRIDAY, OCTOBER 6, 2006

3

1 A P P E A R A N C E S
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4

ON BEHALF OF THE DEFENDANT:

5 DARRELL R. VANDEUSEN, ESQUIRE

6 R. CLIFTON GRAY, ESQUIRE

7 KOLLMAN & SAUCIER, P.A.

8 The Business Law Building

9 1823 York Road

10 Timonium, Maryland 21093

11 (410) 727-4300

12

13

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19

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1 PROCEEDINGS

2 (Lacy Deposition Exhibits 1, 2, 3, 4, 5, 6,
3 7 and 8 marked for identification and attached to
4 transcript.)

5 ALVIA LYNN LACY,

6 having been duly sworn, testified as follows:

7 EXAMINATION BY COUNSEL FOR DEFENDANT

8 BY MR. VANDEUSEN:

9 Q Good morning, Ms. Lacy.

10 A Good morning.

11 Q Just for the record if you'd state your
12 name, address, telephone number, date of birth.

13 A My name is Alvia Lynn Lacy. Address is
14 1306 Jervis, J-e-r-v-i-s, Square, located in Belcamp,
15 Maryland, zip code 21017. My home phone number is
16 area code 410-272-4819, and my birthday is November
17 27th, 1956.

18 Q Thank you very much.

19 A You're welcome.

20 Q Ms. Lacy, my name is Darrell VanDeusen.
21 I'm an attorney representing Amtrak in a lawsuit that
22 you filed against it. With me here today is Cliff

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1 Gray, one of our associates. The purpose of the
2 deposition is to gather facts, information that you
3 have, surrounding the claims that you've raised in
4 your lawsuit. Do you understand that?

9

5 A Yes, I do.

6 Q Have you been deposed before?

7 A Yes, I have.

8 Q So you know, more or less, the drill?

9 A Yes.

10 Q I'll give you a short summary then of how
11 things work. You're under oath. You're expected to
12 testify truthfully. A record will be made of your
13 testimony, the questions I ask and the answers you
14 give. It's important that you answer the questions
15 that I ask orally, out loud, so the court reporter
16 can take that down. She can't see head nods and
17 record that or things of that nature. It's also
18 important that we not talk over each other. So I may
19 ask you a question, and I'll try not to talk over you
20 when you answer, and if you don't talk over me when I
21 ask the question, it will make the transcript a lot
22 easier to read.

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1 A I understand.

2 Q As I said, you're expected to testify
3 truthfully, and I expect that any answer you give me
4 will be truthful. If this matter goes to trial, and
5 I ask you the same question at trial that I asked
6 today, and you give me a different answer than than
7 you gave today, you'll be asked to explain that. Do
8 you understand?

9 A Yes, I do.

10 Q It's important for me to be confident that
11 you understand the question that I'm asking, so if
12 you don't understand, or if you're not sure what I'm
13 trying to ask you, let me know, and I'll try and
14 rephrase it.

15 A Okay.

16 Q If you want a break -- this isn't supposed
17 to be an endurance contest. If you want to take a
18 break, anything like that, let me know, we'll let you
19 have a break, get you some water or coffee or
20 anything like that.

21 A Okay.

22 Q Before we begin, are you taking any

DEPOSITION OF ALVIA LYNN LACY
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1 medication today?

2 A Just Albuterol for my asthma, and oral
3 inhaler that I take in the morning and the evening.

4 Q Anything that would impair your ability to
5 testify truthfully or honestly?

6 A No.

7 Q Are you presently under a doctor's care?

8 A No. Outside of my general practitioner for
9 my asthma, nothing else.

10 Q And are you represented by a lawyer today?

11 A No, I'm not. Not today.

12 Q You mentioned you testified, or you've
13 given deposition testimony before.

14 A Yes.

15 Q When was that?

16 A I don't know the year exactly, but it was a
17 discrimination suit against Amtrak also.

18 Q You've filed a number of discrimination
19 suits against Amtrak; is that true?

20 A Yes.

21 Q We'll talk more about those. Other than
22 the lawsuits that you've filed against Amtrak over

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1 the years --

2 A Yes.

3 Q -- have you ever testified in court before?

4 A No.

5 Q Have you ever been deposed before?

6 A No.

7 Q Have you ever been a plaintiff in a lawsuit
8 filed against anyone other than Amtrak?

9 A No, not to my knowledge.

10 Q Okay. Have you ever filed a lawsuit
11 against any entity or person other than Amtrak?

12 A No.

13 Q Have you ever been a defendant in a lawsuit
14 where somebody has sued you?

15 A No.

16 Q Now, what did you do to prepare for today's
17 deposition?

18 A Basically I have my notes, documents that I
19 have that I could bring with me, and that's about it.

20 Q Okay. What documents did you review?

21 A I reviewed the documents from my filing,
22 the interrogatories, some of the paperwork that's in

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1 there, and the information that you requested.

2 Q Did you review any documents that you've
3 not produced to me?

4 A No. I was looking for -- I wanted to bring
5 the consent decree from the class action suit, and I
6 could not locate that. I wanted to bring that, but
7 I've got to find that, so --

8 Q But the answer is no? Other than documents
9 --

10 A No.

11 Q I'm sorry. This is where we've got to make
12 sure --

13 A Okay.

14 Q So is it correct that other than documents
15 you've produced to me, you've not reviewed any other
16 documents?

17 A No. That's correct.

18 Q That's correct. Okay. Who have you talked
19 to about your deposition today?

20 A I have talked to an attorney out of
21 Delaware, Mr. Gary Aber. I have talked to the people
22 at Civil Justice in Baltimore, Maryland. That's it

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14
1 outside of some co-workers and supervisors that know
2 that I have a deposition today. I don't know if you
3 want those too.

4 Q Thank you. As far as getting out of going
5 to work today and coming here, who did you talk to,
6 who did you have to arrange that with?

7 A Just my supervisor. My union rep knows I'm
8 here, and I guess the manager of the facility.

9 Q And what are their names?

10 A That would be Mr. McFadden, also my
11 supervisor, which is Delisa Maldonado, and my union
12 rep would be Bruce Carlton.

13 Q Any other forms of communication with --
14 you said with co-workers. Have you talked about the
15 substance of your deposition?

16 A No, I haven't.

17 Q E-mails, phone calls, anything like that?

18 A None at all.

19 Q When is the last time you spoke to somebody
20 at Amtrak, whether a co-worker or supervisor, about
21 the substance of your claims?

22 A Probably the last time would have been when

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1 I asked my union rep that -- requested a copy of my
2 personnel file, and I told him I needed it because I
3 was going to a deposition when it was originally
4 scheduled for the 22nd. So that was like a week or
5 two prior to that.

6 Q Were you able to get your personnel file?

7 A Yes, he did get a copy for me. I have that
8 with me today.

9 Q Have any relatives of yours ever worked for
10 Amtrak?

11 A No.

12 Q You're not married?

13 A No, I'm not. Single.

14 Q You have children?

15 A Yes, I do.

16 Q How many?

17 A I have three sons.

18 Q And how old are they?

19 A They are -- my oldest son is 30, my middle
20 son is 29, and my youngest son is 23.

21 Q Are any of them still dependents of yours?

22 A My oldest son Veldez, he has sickle cell.

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1 He kind of does odd jobs, but I do basically care for
2 -- take care of him.

3 Q And the other two?

4 A No. They're fine. They're working,
5 gainfully employed.

6 Q If you could briefly describe for me -- and
7 we'll go back and look at some of the information you
8 provided in the interrogatories. If you could
9 briefly describe for me your employment history at
10 Amtrak, when you came to work at Amtrak, what your
11 job was, if you moved from one job to another job,
12 and sort of just briefly tell me about those jobs.

13 A Okay. Originally I started with Amtrak in
14 August of 1983. I started as a track person on the
15 track.

16 Q What does that mean?

17 A That means you do work on the track, high
18 speed rail, you could be with the undercutters, you
19 could be with TLS, different units. It's basically
20 broke down in different units.

21 Q What did you do as a track person?

22 A As a track person, I -- well, I worked high

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1 speed surfacing, which is basically repairing the
2 track when there's something wrong, and it's
3 usually -- that was usually the shift I was on was a
4 night shift. And we also dropped stone, we
5 maintained the track area. So we dropped stone, then
6 we would clean the area up with physical labor, and
7 we also would raise -- if there was a dip in the
8 track, the rail, rather, we would raise that to
9 standards and things of that type. So that was my --
10 I did that basically while I was in the high speed
11 surfacing gang, and then I worked TLS, which is a
12 track laying system. In that unit you have several
13 operations, but it completes the process of laying
14 new concrete ties. So you may be in a clipping gang,
15 which all you do is put clips on, or you may be in
16 the gang that before the clips come, the cement ties
17 go in, and the alignment and all that's done. So
18 different responsibilities in each segment. I've
19 also worked with undercutter, which is a piece of
20 machinery that undercuts -- I might not be putting
21 this in the technical terms, but it undercuts the
22 track area for the ballast to go in place, and then

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1 you as a track person come in and make sure that it's
2 all cleaned up after the sweeper runs through and
3 things of that nature, the general maintenance.

4 That's about it. Well, I also did hold a position as
5 a cook. Well, they call it campcar attendant.

6 Q How long did you hold that position?

7 A I held that for maybe five or six months.

8 That was a very short period. That's one of those
9 what they call cushy jobs, and you have to have a lot
10 of seniority to hold it, so I was kind of lucky to
11 have it for the six months that I did.

12 Q And that would have been while you were
13 working track?

14 A Yes, while I was in the track department.
15 Then from there, in 1988 I transferred to the
16 mechanical department where I am now.

17 Q Was that your choice?

18 A Yes.

19 Q How did that come about?

20 A That came about because basically as a
21 track person with the seniority that I had, it was
22 rare that I would work a full year.

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1 Q You mean you had low seniority?

2 A Yes. Most of the time when winter comes,
3 when the winter months arrive, if you didn't have at
4 least 10 to 15 years, you didn't work during the
5 winter. So, you know, being a single parent and
6 having -- raising three children, I felt like maybe I
7 need to make this transfer so that I could be
8 gainfully employed year-round.

9 Q Because these are unionized positions,
10 correct?

11 A Yes, they are. They are union positions.

12 Q And so seniority plays a big role?

13 A Yes, yes. So I transferred into the
14 mechanical department in 198 -- wait a minute.
15 Sometimes I get confused.

16 Q That's all right. Take your time.

17 A '83. Yeah, I came to Bear in 1988. Yeah,
18 it was a year after my father passed away.

19 Q All right. And you applied for a move to
20 the mechanical department?

21 A Yes, I put in a transfer.

22 Q And you were accepted?

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1 A Yes, I was interviewed and received a
2 transfer.

3 Q And what were your responsibilities
4 initially in the mechanical department?

5 A My responsibilities now were -- which I'll
6 call it a car repair person or car repairman, but I
7 like to say car repair person.

8 Q Car repair person is fine.

9 A And as a car repair person, you can do
10 anything from freight, repairs of AM fleet 1 and 2
11 vehicles -- or cars, excuse me -- airbrake, you could
12 be a painter, you could work locomotive, which is in
13 Wilmington, and I never worked that entity, but
14 that's an option also. So basically as a car repair
15 person, I did MP, airbrake, freight, car inspections,
16 trucking, you know, everything that has to do with
17 the car, seats, removal of seats, putting in seats,
18 building seats. Those are all individual jobs that
19 you bid, and you hold that specific job, but they're
20 all car repairmen.

21 Q And so what specific jobs have you held as
22 a car repairman?

20

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1 A Every one of them except for locomotive
2 shop. I've done everything.

3 Q And you would bid -- explain to me how you
4 would get that opportunity.

5 A Well, what would happen, say you're in a
6 gang, and you have 20 people, and you bid that gang,
7 and jobs come up weekly. I guess it's a process, you
8 know, where most companies cut back or close down one
9 department. You know what I mean? Basically that's
10 what you do when you abolish a job. You may have 20
11 people in this gang and realize well, I've got 20 too
12 many, let's make it ten, so we're going to abolish
13 ten jobs here, put ten jobs over here.

14 Q So would it be accurate to say
15 hypothetically we have cars coming into Bear, they're
16 going to need repair?

17 A Yes.

18 Q We're going to need some people to take out
19 the seats, replace the seats, but as management looks
20 at what needs to be done, we really only need ten
21 people to do that. Right now we have 20 people
22 assigned, so we're going to bid out for other work

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1 and take people who want to do other work than the
2 seat replacement to do that. Is that an accurate --

3 A That's a --

4 Q -- way that works?

5 A That's correct. That's correct.

6 Q And so you'd have an opportunity to bid --

7 A Yes.

8 Q -- on different jobs that would come up?

9 A Yes, I would.

10 Q And what would be the deciding factors in
11 whether you get the bid or not?

12 A Well, the deciding factor would be your
13 seniority. For me, I would bid a job because I
14 wanted to learn all the jobs. So, you know, I would
15 get comfortable on a job, feel comfortable doing it,
16 learn it, and say well, let me try this now. If
17 something would come up, I would bid that.

18 Q And are there some jobs that are considered
19 more senior jobs and --

20 A Yes.

21 Q -- less senior jobs?

22 A Yes, there are.

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23

1 Q Okay. And if you could describe for me how
2 that works.

3 A Well, I really want to say, you know, it's
4 kind of like -- because I know when I first started,
5 I know there was an employee that -- he was a
6 painter, and what he did was put the stickers -- you
7 know on the train when you see the stickers where the
8 seats go? That was one of his responsibilities. And
9 I thought wow, that's an easy job, but I would never
10 get it because I didn't have the seniority that he
11 had. So in time, you know, when you see a job that
12 you feel like well, I can do that, or I want to try
13 to do that when the opportunity comes up, so what
14 happened was he bid off of it, and I said well, let
15 me put my bid in, and I happened to be the senior
16 person that -- you know, one of the senior persons
17 that bid it, so I received it. So that's kind of how
18 it works, you know.

19 Q And so as a result, you've been able to do
20 everything except locomotive?

21 A Yes. I haven't done locomotive because
22 Wilmington is just a little too far for me to drive.

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1 Q Understood. I understand. All right. So
2 you work out of the Bear facility?

3 A Yes, I do.

4 Q Now, let's sort of use the 2004, 2005 to
5 2006 time period, okay, the last two and a half years
6 or so. What jobs have you held in the last two and a
7 half years --

8 A Well, I was --

9 Q -- in car repair?

10 A Oh, I'm sorry.

11 Q Let me try it again.

12 A I understand what you're saying.

13 Q I just want to make sure it's clear for the
14 record.

15 A Okay.

16 Q In the last two and a half years since
17 January of 2004, what jobs have you held in car
18 repair?

19 A I've held airbrake and a basic car
20 repairman where you just -- car repair
21 responsibilities, and I'm currently in the seat shop.

22 Q How long have you been in the seat shop?

24

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25

1 A I might be coming up on a year in the seat
2 shop. That was the one -- that's the last entity I
3 hadn't worked, seat shop. It's coming up on a year.

4 Q And you bid into that?

5 A Yes, I did.

6 Q Now, let's start now, and then we'll work
7 our way back a little bit. Who do you report to now?

8 A Okay. Do you mean my general foreman,
9 foreman?

10 Q Well, we'll go through that. Maybe it's
11 easier to say what's the organizational chart of
12 being the car repairman in the Bear facility?

13 A Do you want that now, or you want it three
14 years ago?

15 Q Let's start with now, and then we'll work
16 our way back.

17 A Okay. From what I know now, at the Bear
18 facility Mr. McFadden is the superintendent. I'm
19 going to assume that between Ed Hill and Ace
20 McDowell, I don't know if they're both on the same
21 general foreman. For me, Barry Hudson, I believe
22 he's my general foreman. They change titles, and

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1 sometimes you don't even know. And then my foreman
2 would be Ms. Delisa Maldonado.

3 Q Delisa?

4 A Yes.

5 Q Maldonado?

6 A Yes.

7 Q Do you know how to spell that?

8 A I'm not even sure. I'm not even going to
9 take a stab at it.

10 Q That's fine. All right. And that would be
11 in the seat shop?

12 A Yes, that would be in the seat shop.

13 Q How many individuals work in the seat shop
14 with you?

15 A I would say there's eight of us. There's
16 six builders, and two of us strip, so I believe
17 eight.

18 Q Have you all been in there about the same
19 amount of time?

20 A No. Some of those employees have been
21 there longer than myself. Now, the seat shop was
22 always considered a not the job to take, you know, as

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1 a senior person, because you're basically on
2 production, you're supposed to produce, produce. You
3 know, it's a constant ongoing, going, going. So a
4 lot of the senior guys didn't want to work the seat
5 shop.

27

6 Q How is your seniority level at this point?
7 You've been with the company since 1983, and 1988 as
8 car repair.

9 A Yes. I have about, I want to say maybe 120
10 bumps under me. That means 120 people have to go
11 before I go out the door basically.

12 Q And how many people above you do you think
13 at this point?

14 A Probably 70. The last time I checked the
15 roster, I was like number 74.

16 Q So you're in the top half?

17 A I'm in pretty good shape now.

18 Q Although my experience has been that at
19 Amtrak people come and work there for a long time.

20 A Yes, they do.

21 Q So it's not surprising that --

22 A Yes, they do.

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1 Q -- even as long as you've been there,
2 people have worked there longer.

3 A Well, when I first started, I was like 150
4 on the roster. So now I'm at 74. It's probably even
5 lower now.

6 Q What is the basic job progression for
7 somebody who's a union employee who wants to move up,
8 if you will, to be promoted?

9 A Well, I'm going to give you my opinion --

10 Q Okay.

11 A -- because it's not like they said okay,
12 you're here, you're a car repairman, if you want to
13 be a manager, this is what you have to do. In my
14 opinion it's basically who you know and who wants you
15 to go where they want you to go.

16 Q All right. Well, let me ask you this way.
17 What positions would be above car repairman? That's
18 the basic union position?

19 A Yes.

20 Q My understanding is that there's a foreman?

21 A Foreman.

22 Q And there's different levels of foreman?

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1 A Yes, foreman 1, 2, and 3, I believe, or
2 foreman 2 and 3, and then general foreman. I think
3 those are -- I think a general foreman, you're still
4 under a union agreement.

5 Q Right.

6 A Okay.

7 Q And then if you move out of those
8 positions, then you move to manager?

9 A Management, management, yes.

10 Q And in your understanding management
11 doesn't necessarily mean you supervise people; is
12 that correct?

13 A No, not necessarily, because you may
14 have -- you may be on a train crew. Well, you may
15 have responsibilities documenting information -- see
16 what I'm saying? -- but you're still a management
17 position.

18 Q It just means you're not covered by a union
19 agreement?

20 A Right. You're a salary waged employee.
21 Can I make a note here? Also that you can go from,
22 and people have gone from being a car repairman

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1 straight to a manager and skipped the foreman segment
2 of that. Okay?

3 Q. There's no requirement that you absolutely
4 have to have been a foreman before you can move to
5 the ranks of management. Is that what you're saying?

6 A. That's correct.

7 Q. Now, has your supervisory line changed if
8 we go back a year or two years? We talked about who
9 your foreman is now, who your general foreman is.
10 Has that changed? And let's just focus on 2004, 2005
11 and 2006. Has that changed?

12 A. Well, basically it changes when you go to a
13 different gang. In other words, you're going to get
14 a different foreman. Nine times out of ten you're
15 going to have a different general foreman. So yes,
16 because when I was working airbrake, my foreman was
17 Mr. Pender. Well, I had Mr. Pender at one time. I
18 also had Mr. Baker. But the foreman can change, but
19 the general foreman was Roosevelt Gill.

20 Q. And that was when you were at airbrake?

21 A. Yes.

22 Q. What's Mr. Gill's race?

30

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1 A He's an African-American.

2 Q You said you had a foreman by the name of
3 Pender?

4 A Yes, Mr. Pender.

5 Q What's his race?

6 A He's a Caucasian. Mr. Baker is a
7 Caucasian.

8 Q Now, you went from airbrake -- did you go
9 from airbrake to seat shop, or you said you were in
10 basic car repair?

11 A Yes, I did. I went from airbrake to the
12 seat shop because my airbrake position was abolished.

13 Q Anybody else's abolished when that
14 happened?

15 A No, I don't think it was. I mean there
16 probably were other jobs because usually when the
17 abolitions are done, they'll put the abolitions
18 up, and they're effective the same day for everybody,
19 so -- but in my gang I can't remember.

20 Q But there were other jobs at the same time?

21 A Yeah, there were other jobs at the same
22 time.

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1 Q And then you went to the seat shop?

2 A Yes.

3 Q And who was your foreman when you first
4 went to the seat shop?

5 A When I first went to the seat shop, Ms.
6 Maldonado was my foreman.

7 Q And she still is?

8 A She still is, yes.

9 Q And what's her race?

10 A She's African-American.

11 Q What I'm going to do now is start handing
12 you documents and have you look at them. We're going
13 to talk about those as we go through.

14 A Yes.

15 Q This lawsuit is based on a charge of
16 discrimination that you filed with the Equal
17 Employment Opportunity Commission.

18 A Correct.

19 Q I'll show you a document we've marked as
20 Exhibit 1 and ask you if you recognize that document.

21 A Yes, I do.

22 Q Is that the charge of discrimination you

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1 filed with the EEOC?

2 A Yes, it is.

3 Q And that's your signature at the bottom?

4 A Yes, it is.

5 Q Dated March 4th, 2005?

6 A That's correct.

7 Q In this charge of discrimination, if I look
8 down in the fourth paragraph, it says attached are a
9 series of incidents that took place at the
10 respondent's facility since I started working there.
11 I realize that some of these incidents are time-
12 barred, but I want to show a clear pattern of
13 discriminatory behavior and treatment. Do you see
14 that?

15 A Yes, I do.

16 Q Do you understand what time-barred means?

17 A Yes.

18 Q What's your understanding of what that
19 means?

20 A Well, first of all, my initial charge of
21 discrimination, the EEOC put this in here I guess to
22 -- my original wordings were there are some incidents

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1 that have taken place, and even though they may not
2 have been in the one-year period that is required by
3 the EEOC charging -- you know what I mean? -- you
4 understand what I'm saying? -- incident, that they
5 were still to show they had been concurring and
6 ongoing. So I'm assuming that the time-barred means
7 that they're not included in the charge time period,
8 but they occurred.

9 Q And do you see that up there on the top
10 where you signed as the dates of discrimination took
11 place, the earliest was 10-1, 2004?

12 A Yes.

13 Q And you alleged race, sex and retaliation?

14 A Yes.

15 Q All right. Now, let me hand you a document
16 we've marked as Exhibit 2.

17 A Excuse me. This should be 10 because it
18 should be for a year. I did it for a year. I don't
19 know how that's in there. I don't understand.

20 Q Let's be clear about that. You're saying
21 that your -- you're looking at what?

22 A I'm looking at -- this says date the

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1 discrimination took place. So the earliest is 10-1,
2 35 2004, and the latest is 10,000 -- 10-1, 2004. That's
3 just like that day. It should be 10-1, 2005. I
4 believe that's what my documentation was.

5 Q Well, hold on, because you filed the charge
6 in March of 2005.

7 A Right.

8 Q So it couldn't be 10-1, 2005 as the
9 latest. Do you think you're going back a year?
10 10-1, 2004 would be the latest, and the earliest
11 would be a year earlier?

12 A I'm not sure. I was assuming that when I
13 filed this, it was for the year blockage of what had
14 happened to me. That's why I put the jobs I had
15 applied for, the incidents that took place. So I
16 don't know. Is that how they list it?

17 Q Okay. That's fine.

18 A Yeah, that's how they list it.

19 Q But you were looking at a year's --

20 A Blockage.

21 Q -- time period?

22 A Yes, I was.

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1 Q Okay. Thank you very much. That helps
2 clarify things.

3 A Okay.

4 Q Let me hand you a document that's been
5 marked as Exhibit 2 and ask you if you recognize
6 that.

7 A Yes.

8 Q That was your dismissal and notice of right
9 to sue by the EEOC?

10 A Correct.

11 Q And that appears to be dated November 2nd,
12 2005?

13 A Correct.

14 Q And you received a copy of that?

15 A Yes, I did.

16 Q Do you recall when you received a copy of
17 that? On November 2nd?

18 A Yeah, it was prob -- no, it wasn't on the
19 2nd. It was probably like within that week.

20 Q And you understood that the EEOC had
21 dismissed your claim?

22 A Yes, but I based it on, you know, what they

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1 had X'd here. It said it was unable to conclude that
2 the information obtained established violations. It
3 does not --

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4 Q Right.

5 A But this does not clarify that the
6 respondent is not in compliance with the statute.

7 Q All right. And then, so as a result of
8 receiving that notice of right to sue, you filed your
9 lawsuit?

10 A Yes, I did.

11 Q Let's hand you a document that's been
12 marked as Exhibit 3 and ask you if you recognize that
13 document.

14 A Yes, I do.

15 Q And that's the complaint you filed in this
16 matter?

17 A Yes, it is.

18 Q And I'll ask you to look through all the
19 pages just to make sure that you recognize it.

20 A Yes, I recognize this.

21 Q If you look at the second page of the
22 complaint, paragraph 8, where it reads plaintiff

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1 filed charges with the Equal Employment Opportunity
2 Commission of the United States regarding defendant's
3 alleged discrimination -- discriminatory conduct
4 on -- that would be 11-2, 2005 -- that would be
5 November 2nd, 2005 --

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6 A Correct.

7 Q -- that can't be right.

8 A Well, what I did, I took the date from the
9 right to sue letter. That's what I did on that.

10 Q So it's not when you -- but that's not when
11 you --

12 A Right.

13 Q -- filed the charge, correct?

14 A No, it's not. It should have been actually
15 March 4, 2005.

16 Q Okay.

17 A Okay.

18 Q That's fine. Just making sure that I --

19 A Okay.

20 Q -- got the dates right as we go through
21 here.

22 A Uh-huh.

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1 Q Now, if we go down to paragraph 10, all
2 right, you explain what you're challenging in the
3 lawsuit, correct?

4 A Yes.

5 Q Failure to promote was a little circle you
6 circled in there under C. Do you see that?

7 A Yes, I do.

8 Q And those would be the positions that you
9 had applied for for the year you were talking about?

10 A Yes.

11 Q Other acts specified below, and so we list
12 these here.

13 A Yes.

14 Q Plaintiff was terminated from the foreman
15 training program. Do you see that?

16 A Yes, I do.

17 Q When did that occur?

18 A That occurred in 1999.

19 Q Okay.

20 A I may have -- not have the year right, but
21 I'm thinking it's 1999.

22 Q Okay.

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1 A Okay.

2 Q Number 2. Plaintiff did not receive the
3 court-ordered relief in the class action suit of
4 McLaurin against Amtrak. Do you see that?

5 A Yes.

6 Q When did that happen?

7 A Okay.

8 Q And we may talk more about the consent
9 decree in McLaurin.

10 A Okay. Basically at the time that I was
11 expelled from the foreman's program, I had a charge
12 in of discrimination, okay, in federal district
13 court, and I had trouble finding an attorney. So
14 what happened was someone called me and said Amtrak
15 has a class action suit, and you need to contact them
16 about putting paperwork in and join that suit. So I
17 talked to a Mr. Warren Kaplan out of Washington,
18 D.C., and he said look, just come into the class
19 action suit, and bring your retaliation charge and
20 your discrimination charge, and just go with the --
21 carry it over here, so that's what that part --

22 Q That's about?

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1 A Yes.

2 Q And that would have occurred back in the
3 late '90s then?

4 A No, because when I got kicked off the
5 foreman's program, that was '99, and this was
6 starting -- just starting to substance itself, the
7 McLaurin.

8 Q So that was in 2000 --

9 A Yes, it was --

10 Q -- 2001?

11 A -- 2000, 2001, yes.

12 Q Number 3. Plaintiff has been forced to
13 work in a hostile work environment in addition to
14 being the subject of ongoing retaliation, harassment
15 and discriminatory conduct. Do you see that?

16 A Yes, I do.

17 Q Do you contend that you've been subjected
18 to a hostile work environment since -- in 2004?

19 A Yes, from day one I have been.

20 Q All right. In 2005?

21 A Yes.

22 Q In 2006?

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1 A No. It has gotten better. It has gotten
2 better.

3 Q And when do you contend it started getting
4 better?

5 A Well, you know, it's really ironic because
6 when I first came in the seat shop, I normally work
7 7:00 to 3:00, and their schedule is 6:00 to 2:00. By
8 me living a 40 -- by me living in an area where I'm
9 45 minutes away, 6:00 to 2:00, I have to get up at --
10 I have to leave my house at 5:00. So I had requested
11 to work 7:00 to 3:00, and I was told no, you have to
12 work 6:00 to 2:00, that's your shift. So that Monday
13 I was late, I got there around 6:30, and when I
14 arrived at work, Ms. Maldonado told me that Mr. Hill,
15 Mr. Al Thompson and Mr. Fox were all waiting at the
16 door for me at 6:00 o'clock. So I said wow, I guess
17 I was special. So anyway --

18 Q Well, that's when you were supposed to come
19 to work, right?

20 A Right. But they normally don't greet
21 employees like that. When you bid a job, it's like,
22 you know, you bid your job. It's not like you have

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1 to have some supervisor there to see that you show
2 up. Your foreman is there, so -- and everybody was
3 -- thought it was a little abnormal. But anyway, so
4 the job that I wanted to bump, because I actually had
5 to bump into the seat shop, so there was a big
6 controversy about, well, I wanted to bump a specific
7 job which was being held by a junior person, but they
8 told me I couldn't bump him, that I had to bump the
9 lowest man, and then if it was up to the discretion
10 of the foreman, I could take possession of the
11 position. So I went to my union rep, and he said
12 look, they're just twisting the rules around, I don't
13 know if it's because you -- it's you or what, but he
14 said just go ahead and bump the lowest person and
15 then request the job that you want once you get
16 there. So the job that I wanted to take possession
17 of was basically building seat backs, and my very
18 first day when I got there, I was informed that I
19 would go -- I would receive training to build seats.
20 So for three days I watched the lead person build a
21 seat and also assisted in building a seat myself.

22 Q So you got the training?

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1 A Yes. Well, I got -- well, forced,
2 whatever. Okay. So after a week, I was still over
3 in the building the seat area. So the morning we
4 were having our safety meeting, and I was informed
5 that I was going to build, and I said when am I going
6 to get possession -- take possession of the position
7 that I bumped -- that I came over here for? And
8 that's when Ms. Maldonado said today. So I went
9 over, and I started building seats that day. So
10 basically what I'm saying is normally when you take
11 possession of a job, you just take possession. They
12 kind of bull squaggled me. They kind of pulled me
13 around. I don't know if they were thinking if we tug
14 her a little bit, she won't stay here, she'll bid
15 out, but that's what they did.

16 Q And who is they?

17 A Well, Delisa gets her orders from Ed Hill,
18 Al Thompson and Mike Fox. She doesn't really make
19 any decisions. They tell her who's going to do what,
20 who's going to do the dock, who's going to build,
21 who's going to strip. That's what they do.

22 Q And your testimony is she doesn't have a

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1 say in that?

2 A Not much.

3 Q When did you go to the seat shop?

4 A It was last year, 2005. I want to say
5 October, November. That's why I want to say I'm
6 coming up on a year. I could find out specifically.

7 Q That's okay.

8 A You know, that's the actual possession
9 time.

10 Q All right. So just to be clear, is it your
11 testimony that in 2006 you've not been subjected to

12 --

13 A No.

14 Q -- a hostile work --

15 A Everything's been -- everything's been --
16 well, I'll say it's been okay.

17 Q All right. In 2006. Now let's go back to
18 2005. You just referred to the incident when you
19 first came to the seat shop.

20 A Yes.

21 Q All right. Do you contend that was taken
22 for a discriminatory reason, because you're

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1 African-American or because you're female?

2 A Yes. And I'm going to say this, because
3 normally when a person bids a job, you don't have a
4 superintendent or a supervisor waiting for you to get
5 to the job that morning. I don't know if you're
6 understanding what I'm saying. Normally I'm going to
7 start my job in gang 66 Monday. I just go to work,
8 and there's my foreman, and he tells me your job, and
9 I go to work. There's no big thing about it.

10 Q Maybe I misunderstood --

11 A Okay.

12 Q -- your testimony. I thought when you
13 first bid the job, you said you wanted to work at a
14 different time than the regular shift.

15 A Yes.

16 Q All right. And that the first day or one
17 of the days you were actually showing up late.

18 A Yes.

19 Q All right. And so they'd been waiting --
20 you heard they'd been waiting there at 6:00 o'clock
21 when the shift started?

22 A Right, because they probably said she's

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1 going to be late. They probably figured that because
2 that's why we're not going to allow her to change her
3 shift, but for the record there's people at the
4 facility that come in on a daily basis at any time.
5 If they want to come in at 7:00, they work 7:00 to
6 3:00, if they want to come in 6:00 to 2:00, they work
7 6:00 to 2:00, but there's only a select group of
8 people who are not going to be allowed to change
9 their shift when it is a union rule that you can
10 change your shift two hours either before or after
11 your actual listed start.

12 Q Now, is that the incident that you
13 contacted Amtrak's office of diversity about?

14 A No, that's not -- that's not one, but that
15 would be --

16 Q There was a prior incident involving --

17 A Yes, it was.

18 Q There was a prior incident involving
19 attendance that you had contacted DRO about?

20 A Yes, I did.

21 Q Okay. We'll talk about that.

22 A Okay.

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1 Q But you contend that -- well, do you
2 contend that they were waiting there for you because
3 of your race?

4 A I don't know how to answer that. I want to
5 say they were waiting there because it's me, and I'm
6 black.

7 Q Okay.

8 A Okay?

9 Q Would you agree that there's a difference
10 between waiting for you because of who you are --

11 A Yeah.

12 Q -- separate from what your race is?

13 A No. You're confusing me on that.

14 Q Okay. Well, I don't want to do that.

15 A Well, let me put it like this. If I was a
16 white woman or a Caucasian woman, they wouldn't have
17 been waiting there for me. Does that help you
18 understand it a little better?

19 Q What if you were an African-American man?

20 A I'll say yes if you have done the things
21 that I have done. Do you understand what I'm saying?

22 Q No.

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1 A When I say that, like my record, when
2 you -- when you do something, and it doesn't -- it's
3 not justifiable, or it's not fair, I usually speak on
4 it. Okay? Now, what I'm trying to say is if you're
5 an African-American male, and you just started
6 working there, and say you're Ed Hill's friend's
7 nephew, he's not going to show up to see that you get
8 there at 6:00 in the morning, but say you're an
9 African-American male, and Ed Hill doesn't like your
10 buddy that got you in. He's going to be waiting on
11 you, or there's a possibility he'll be waiting on
12 you.

13 Q So you could have two --

14 A Understand?

15 Q You could have two African-American men
16 treated differently --

17 A Exactly.

18 Q -- based on whether Ed Hill likes you or
19 not?

20 A Exactly. That's what happens, and it
21 happens every day.

22 Q What's Mr. Hill's race?

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1 A Mr. Hill is a Caucasian.

2 Q How about Mr. Thompson?

3 A He's a Caucasian.

4 Q How about Mr. Fox?

5 A Caucasian.

6 Q In this group of individuals with whom you
7 work in the seat shop, what's the racial and gender
8 mix? You say you have about eight people?

9 A There's eight people. There's two
10 African-Americans, myself and Kevin Bishop, who is a
11 male, and the rest are Caucasian.

12 Q Are they male or female?

13 A They're males.

14 Q So you're the only female?

15 A Only female.

16 Q So when you said you were a white female,
17 that was an example. That's not really an event.

18 A Oh, yes, I can give you events.

19 Q Okay.

20 A Basically what I'm saying is -- and it's an
21 unspoken rule at Bear. There's two sets of rules. I
22 can give you all kind of examples if you want them.